



STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT

JAMES A. NOEL
COURT EXECUTIVE OFFICER
CLERK OF THE COURT

November 25, 2019

MuckRock News Department
Attn: Lucy Parsons Labs
MR 82895, 411A Highland Avenue
Somerville, MA 02144

Sent via Email: 82895-71535069@requests.muckrock.com

Re: Inspection of Public Records Act Request received November 21, 2019
Second Judicial District Court IPRA Request #2019-11-0522

Dear Ms. Parsons Labs,

The Second Judicial District Court (SJDC) is in receipt of your public records request forwarded by the State of New Mexico Administrative Office of the Courts and received by Second Judicial District Court Administration on November 21, 2019. Citing the New Mexico Inspection of Public Records Act (IPRA), NMSA 1978, § 14-2-1 *et seq.*, you have requested the following records:

Records Requested: *Pursuant to the New Mexico Inspection of Public Records Act, I hereby request the following records:*

For all search warrants, applications for search warrants, cancellations, and authorization for search warrants between 2012 to the date of processing this request, please provide the following points of record for each:

Full Name of requester

If arrest, arrest ID (eg some cities/states use, "Incident Report")

Reason(s) for search warrant (typically either hand-written, or checkboxes)

Badge ID (or similar) of requester

District/Unit

Name of Judge

Name of approving officer

Whether an Arrest happened
Requested location of search warrant
Location of search warrant execution
Type of search warrant
Statements used to justify search warrant
Time and date when search warrant was submitted for approval
Time and date when search warrant was executed
Whether anything was seized
Whether anything was found
License plate of vehicle (if relevant)
Race of person for search warrant
Age of person for search warrant
State of person for search warrant
Whether an informant was involved
Method of contact with informant leading to search warrant (eg, phone call, mail, fax, email, etc.)
Description of person search warrant executed on
Legal code of violation
Description of violation
Date of violation
If search warrant related to debt: name of company debt is owed to, amount owed
Whether FBI involved
ID associated with FBI document (e.g., IR #)
Whether search warrant was cancelled
Whether contraband found
Whether narcotics found

The records responsive to this request are likely available in a database, or in some queryable format. If your department or agency does not have direct access to the records, please raise to the respective department that can run queries directly (e.g., through SQL).

Should your agency not have all of the requested records within a single record or document, please provide me the relevant documents that do, even if that requires more than one class of document. Should some of the records be unavailable, please let me know ahead of time so that we can narrow the request accordingly.

As the records responsive to this request are imperative for understanding how search warrants are executed, I ask that the public interest of these records be evaluated to the extent that the public's interest outweighs this request's burden. To add, this request is being sent to the largest city of every state and will be collated together to create a comprehensive map of search warrants throughout the US. As such, the records are not only important for understanding search warrants at a local level, but also at a national and state-wide level.

Please ensure that provided documents comply with Section 508, as these records will be shared with members of the public who are covered under the ADA. This guide should be helpful: <https://www.hhs.gov/web/section-508/making-files-accessible/checklist/pdf/index.html>

If this request was sent to the wrong department or agency, please let me know so that I can send to the correct place.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 15 business days, as the statute requires.

SJDC RESPONSE: It is the policy of the Second Judicial District Court to be fully responsive to requests for public records available under the Inspection of Public Records Act, NMSA1978, § 14-2-1 *et seq.* (“IPRA”). The Inspection of Public Records Act provides the public with the right to access government records. IPRA requires government agencies to allow the inspection of existing records. Your request is not for a record. Instead, you asked for bulk data relating to warrants. The New Mexico IPRA does not impose a duty on state agencies to create records that do not already exist.

SJDC uses the Odyssey electronic case management system for docketing and case management purposes. Please be advised that the Odyssey system is not being utilized to capture and report the specific and discrete data you requested regarding search warrants. The Court does not maintain or run any reports that would routinely gather and produce the data you requested. The provisions of IPRA do not require a governmental body to create documents, lists, spreadsheets, statistics or other reports in order to respond to a records request. See NMSA 1978, § 14-2-8(B) (Nothing in the Inspection of Public Records Act shall be construed to require a public body to create a public record.) For example, you ask for the “age” of each person subject to a search warrant since 2012. We have no record that contains a compilation of the ages of every person who was the subject of a search warrant. Similarly, you also asked for a “description” of each person subject to a search warrant since 2012. Again, we have no record or report that provides that information. What you have asked for are data points that must be manually culled out of hundreds of thousands of pages of records, and compiled into reports that currently do not exist. As noted above, IPRA does not require an agency to create a report that does not exist.

Furthermore, SJDC does not have custody or control of arrest records or data. See Rule 5-211 NMRA, Search Warrants (Search warrants may only be executed by “a full-time salaried state or county law enforcement officer, a municipal police officer, a campus security officer, an Indian tribal or pueblo law enforcement officer, or a civil officer of the United States authorized to enforce

or assist in enforcing any federal law.”). Public records requests seeking law enforcement records, statistics and reports should be requested through the law enforcement agency that handled the criminal investigation, namely the Albuquerque Police Department (APD) or the Bernalillo County Sheriff’s Office (BCSO). The APD records custodian can be reached via email at cityclerkipra@cabq.gov. The BCSO records custodian can be reached at rfloryance@bernco.gov. To expedite your request, it is advisable for you to write an additional letter requesting the records to the proper law enforcement agency that conducted the criminal investigation.

For all media inquiries, please contact Sidney Hill, the SJDC Public Information Officer at albdsxh@nmcourts.gov or (505) 841-7504. Your inspection of public records request is now considered to be closed.

Sincerely,

A handwritten signature in blue ink, appearing to read "James A. Noel".

James A. Noel
Court Executive Officer

cc: Sidney Hill, SJDC Public Information Officer
APD Records Custodian
BCSO Records Custodian
File